

## Minerals Management Service, Interior

## § 228.104

their agreement to delegate to the State responsibilities under the terms of the cooperative agreement for activities to be conducted on tribal or allotted land.

(c) The eligible activities to be conducted under the terms of a cooperative agreement may be funded or unfunded by the Department. See § 228.105 of this subpart for funding of cooperative agreements.

[49 FR 37348, Sept. 21, 1984, as amended at 56 FR 10512, Mar. 13, 1991]

### § 228.101 Terms of agreement.

(a) Agreements entered into under this part shall be valid for a period of 3 years and shall be renewable or additional consecutive 3-year periods upon request of the State or Indian tribe which is a party to the agreement.

(b) An agreement may be terminated at any time by mutual agreement and upon any terms and conditions as agreed upon by the parties.

(c) A State or Indian tribe may unilaterally terminate an agreement by giving a 120-day written notice of intent to terminate.

(d) The MMS may commence termination of an agreement by giving a 120-day written notice of intent to terminate. MMS shall provide the State or Indian tribe with the reasons for the proposed termination in writing if the termination is proposed because of alleged deficiencies by the State or Indian tribe in carrying out the provisions of the agreement. The State or Indian tribe will be given 60 days to respond to the notice of deficiencies and to provide a plan for correction of those deficiencies. No final action on termination shall be taken until any submission of the State or Indian tribe provided within the above prescribed 60 days has been reviewed by MMS for content or merit.

(e) Termination of a cooperative agreement shall not bar a later request by a State or Indian tribe to enter into a subsequent cooperative agreement.

### § 228.102 Establishment of standards.

The MMS, after consultation with States and Indian tribes, shall establish standards for carrying out the activities under the provisions of this part. The standards will be incor-

porated into the agreement and shall be no more stringent than those applicable to similar activities of the MMS. The States and Indian tribes shall coordinate their planned auditing activities with MMS. Where an MMS audit team is permanently assigned to a lessee/payor, contact by State and Indian tribal auditors with the lessee/payor shall be through the MMS auditor in residence.

### § 228.103 Maintenance of records.

(a) The State or Indian tribe entering into a cooperative agreement under this part must retain all records, reports, working papers, and any backup materials for a period specified by MMS. All records and support materials must be available for inspection and review by appropriate personnel of the Department including the Office of the Inspector General.

(b) The State or Indian tribe shall maintain all books and records as may be necessary to assure compliance with the provisions of chapter 1, 48 CFR 31.107 and 48 CFR subpart 31.6 (Contracts with State, local, and federally recognized Indian tribal Governments).

[56 FR 10512, Mar. 13, 1991]

### § 228.104 Availability of information.

(a) Under the provisions of this part, information necessary to carry out the activities authorized under the terms of a cooperative agreement will be provided by DOI to the States and Indian tribes entering into such agreements. The information will consist of data provided from all relevant sources on a lease level basis for leases located within the boundaries of the State or Indian tribe which has entered into the agreement. This information will include any records or data held by the lessee or other person that have not been submitted to MMS, but that affect Federal lease interests and could be required to be submitted under the lease terms or Federal regulations.

(b) None of the provisions of this subpart should be construed as limiting information already being provided to Indian tribes and allottees regarding their lease interests.

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(c) Information will be provided by MMS on a monthly basis and will include data on royalties, rents, and bonuses collected on the lease, volumes produced, sales made, value of products disposed of as a sale and used as a basis for royalty calculation, and other information necessary to allow the State or tribe to carry out its responsibilities under the cooperative agreement.

(d) Proprietary data that is made available to a State or tribe under provisions of 30 U.S.C. 1733 shall be subject to the constraints of 18 U.S.C. 1905. To receive proprietary data, the State or tribe must—

(1) Demonstrate what audit, investigation, or litigation under provisions of 30 U.S.C. 1734 is planned for or underway for which this data is essential;

(2) Demonstrate why this particular data is necessary; and

(3) Agree to safeguard proprietary data as provided.

**§ 228.105 Funding of cooperative agreements.**

(a)(1) The Department may, under the terms of the cooperative agreement, reimburse the State or Indian tribe up to 100 percent of the costs of eligible activities. Eligible activities will be agreed upon annually upon the submission and approval of a workplan and funding requirement.

(2) A cooperative agreement may be entered into with a State or Indian tribe, upon request, without a requirement for reimbursement of costs by the Department.

(b) All cooperative agreements under this part are subject to annual funding and the availability of appropriations specifically designated for the purpose of this part.

(c) The State or Indian tribe shall submit a voucher for reimbursement of eligible costs incurred within 30 days of the end of each calendar quarter. The State or Indian tribe must provide the Department a summary of costs incurred, for which the State or Indian tribe is seeking reimbursement, with the voucher.

[49 FR 37348, Sept. 21, 1984, as amended at 56 FR 10512, Mar. 13, 1991]

**§ 228.107 Eligible cost of activities.**

(a) If a cooperative agreement provides for Federal funding, only costs directly associated with eligible activities undertaken by the State or Indian tribe under the terms of a cooperative agreement will be eligible for reimbursement. Costs of services or activities which cannot be directly related to the support of activities specified in the agreement will not be eligible for Federal funding or for inclusion in the State's share or in the Indian tribe's share of funding that may be established in the agreement.

(b) Eligible costs are the cost of salaries and benefits associated with technical, support, and clerical personnel engaged in eligible activities; direct cost of travel, rentals, and other normal administrative activities in direct support of the project or projects; basic and specialized training for State and tribal participants; and cost of any contractual services which can be shown to be in direct support of the activities covered by the agreement. Each cooperative agreement shall contain detailed schedules identifying those activities and costs which qualify for funding and the procedures, timing, and mechanics for implementing Federal funding.

[49 FR 37348, Sept. 21, 1984, as amended at 56 FR 10512, Mar. 13, 1991]

**§ 228.108 Deduction of civil penalties accruing to the State or tribe from the Federal share of a cooperative agreement.**

As provided at 30 U.S.C. 1736, 50 percent of any civil penalty collected as a result of activities under a cooperative agreement will be shared with the State or Indian tribe performing the cooperative agreement; however, the amount of the civil penalty shared will be deducted from any Federal funding owed under that cooperative agreement. MMS shall maintain records of civil penalties collected and distributed to the States and tribes involved in cooperative agreements. Each quarterly payment of the Federal share of a cooperative agreement will be reduced by the amount of the civil penalties paid to the State or tribe during the prior quarter.